

Year End Tax Planning Considerations

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The end of another year is creeping up upon us once again, (and what a year it continues to be!). It's no secret that most of us feel concerned and highly anxious watching and hearing the incredible news surrounding the stock markets worldwide and wondering how this will affect our financial future and day to day life. While there are no easy answers to the state of the financial markets, it is in times like this that we should pay attention to the things that we can control. Most of us know tax planning is a year-round activity and is a vital component of the financial planning process. It is now the time to pay special attention to various tax issues in advance of the end of 2008 taxation year.

The following briefly outlines some common tax planning ideas/items that may need to be addressed for the 2008 taxation year;

Personal Planning Opportunities

- Securities Trading
- Registered Plans
- Personal Payments
- Transit Pass Tax Credit
- Mutual Fund Purchases
- Non-deductible Interest on Your Loans
- Allocating Pension Income to your Spouse
- Estate Planning
- Stock Option Deferral
- Tax Shelter

Corporate Planning Opportunities

- Shareholder Loans
- Capital Gains Exemption
- Allowable Business Investment loss (ABIL)

Note: These points are general and brief, and not applicable to all situations. Consult with your own tax advisor before implementing any of these strategies to determine if any of these options are relevant and prudent as it pertains to your own specific situation.

Securities Trading

The following is a brief summary of some tax loss selling planning strategies. Please consult with your own tax advisor to determine which strategies are appropriate and relevant to your specific circumstance.



1. Tax loss selling to crystallize unrealized capital losses

As we approach the end of the 2008 personal taxation year, consider crystallizing capital losses on positions in your portfolio that are currently trading at a loss. Realized capital losses can be used to offset realized capital gains in the current year, thereby minimizing tax. If there is a net loss in the current year it can be carried back to reduce taxable capital gains in the prior three years. Losses not carried back can be carried forward indefinitely against future years' capital gains.

Remember to watch out for the superficial loss rules if the individual or the individual's spouse or related corporation acquired the same security within 30 days of the sale (the rules will work to prevent the immediate claiming of the loss).

To maximize your losses, consider deferring any further sales of securities with gains until January (this could also be used to defer tax where there are no accumulated losses).

2. Selling to use capital losses carried forward from a prior year

Consider triggering gains in your portfolio that can be offset by unused capital losses that are being carried forward from prior years.

3. Transferring unrealized capital losses from spouse or common-law partner:

In certain circumstances a more complex method of tax loss selling could possibly be used to transfer unrealized capital losses from a spouse or common-law partner (CLP). In very general terms, an individual's spouse or CLP could sell a security that they are holding in a loss position for fair market value on the open market. The individual could then immediately acquire the same security. Under the federal tax rules the loss generated in the hands of the selling spouse or CLP would be a superficial loss and, therefore, not deductible in their hands. However, the rules dictate that the superficial loss amount of the selling spouse or CLP must be added to the cost of the security that was purchased by the individual. After 30 days the individual could then sell the security, presumably generating a loss that could be applied against other capital gains. Given that the mechanics of this type of transaction has a higher degree of complexity and requires that certain conditions be met and adhered to, we strongly advise that you contact your own tax accountant/tax advisor for more details of this strategy in order to find out if this alternative is a suitable option for you.

4 Utilizing future capital losses

In the event that you have no capital losses to utilize, you should keep in mind that capital losses can be carried back three years to offset any capital gains in those years and recover some of the taxes already paid. Thus, if in the coming three years you have realized capital losses, they can be carried back and used against the capital gain realized in 2008

A quick reminder that losses triggered on the transfer of securities to a RRSP are not deductible against realized capital gains.



Year End Securities Trading Considerations

- Final trade date for security transactions for Toronto trades is December 24, 2008.
- Final trade date for securities transactions through New York is December 26, 2008.
- Key: Settlement must take place not later than December 31st.
- Consider delaying the purchase of annual pay/accrual fixed income securities (e.g. 1 year T-Bill or annual pay GIC) until 2009, thereby deferring the taxation of the income by a year.
- Election to defer the income inclusion of stock option benefits must be filed with the individual's employer by January 16, 2009 (Form T1212).

Registered Plans

- Deadline for 2008 RRSP contributions is March 2, 2009.
- Reminder: The annual contribution limit for 2008 is the lesser of 18% of 2007 earned income up to a maximum of \$20,000, less the Pension Adjustment for 2007. The 2007 Notice of Assessment will indicate the allowable amount along with any unused amounts from prior years.
- If the annuitant turns 71 in 2008, RRSPs must be terminated and, to avoid being fully taxable in 2008, converted to a RRIF and/or annuity by December 31.

Note: Contributions to the plan must be made by December 31 - not 60 days after year end - as the plan won't exist after December 31! Where the individual still has contribution room, contributions can continue to be made to a spousal plan if the individual's spouse is not over 71.

- The RRSP limit for 2009 will be \$21,000.
- The over contribution limit is \$2,000. If this is exceeded the penalty is 1% per month.
- Contribute to RESPs no later than December 31 to maximize the income deferral and benefit from the Canada Education Savings Grant (20% of contribution to maximum of \$500 per year if beneficiary is under 18).

Note: The maximum lifetime contribution limit is \$50,000 per beneficiary.

Personal Payments

- Final tax instalment payment for 2008 is December 15.
- Remember: In addition to non-deductible interest on late or deficient instalments (currently 7%).



- Charitable donation payments must be made before the end of the year. The maximum annual claim is 75% of net income. Unused amounts can be carried forward up to five years. Where publicly listed shares are donated, the gain is no longer taxable.
- Eligible medical expenses can be claimed for any 12 month period ending in the calendar year. Only amounts in excess of the lesser of 3% and \$1,962 are eligible.
- A Reminder for parents of children under the age of 16, who are entitled to a non-refundable tax credit of up to \$500 for each child registered in an eligible program of physical activity.
- Other payments that must be made by December 31 to be considered in the 2008 tax return include:
 - Investment management & custody fees
 - Loan interest
 - Safety deposit box
 - Alimony/maintenance payments
 - Political contributions
 - Tax shelter payments
 - Tuition fees
 - Child care
 - Professional fees
 - Interest on family loans (generally at the prescribed rate) must be paid by January 30, 2009 to avoid income attribution. Consider new arrangements while the prescribed rate is low – currently 3%
 - Review family trusts for any action that's required by December 31, 2008.

Transit Pass Tax Credit

A non-refundable tax credit is issued for the cost of public transit passes (yearly, monthly, weekly and cost-per-trip electronic cards) provided that certain conditions are met. The amount claimed is multiplied by the lowest personal income tax rate for the year (currently 15%) and then deducted from the amount of taxes otherwise payable.

Mutual Fund Purchases

Consider deferring the purchase of non-registered mutual fund units near the year-end to avoid having to report year-end distributions.

Non-deductible Interest on Your Loans

If you have investments outside a RRSP or RRIF, consider liquidating some of the investments (calculating the tax cost first) and use the proceeds to pay down the debt. Then re-borrow to replace the investments.



Allocating Pension Income to Your Spouse

You are able to elect to allocate up to one-half of your income that qualifies for the existing pension income tax credit to your resident spouse/common-law partner. This may result in greater after tax income from your retirement plans.

Eligible Pension Income will vary depending on age

For people age 65 and older, eligible pension income includes payments from a registered pension plan (RPP – a pension from an employer-sponsored defined benefit plan or a defined contribution plan), income from a registered retirement savings plan (RRSP) annuity, a registered retirement income fund (RRIF), a LIF (a locked-in RRIF), or a deferred profit sharing plan (DPSP) annuity.

For individuals younger than 65 eligible pension income includes only payments from a registered pension plan (RPP – defined benefit or defined contribution).

Eligible pension income does not include guaranteed income supplement (GIS), old age security (OAS), RRSP withdrawals and income from retirement compensation agreements (RCAs).

Estate Planning

Do you need to update your Will? Do you know what taxes your estate will be burdened with upon your death? Why wait to make it a New Year's resolution to get your estate planning in order, take the initiative now, and consult with your legal advisor.

Stock Option Deferral

Stocks acquired (through stock option plans) but not sold during 2008 can have the benefit deferred on amounts up to \$100,000 in total fair market value (based on the fair market value at the time the options were granted). Your employer must be notified of your wish to defer before January 16, 2009.

Tax Shelters

Tax shelters are by their very nature a known means of reducing income taxes. More importantly as the year end approaches, many of these shelters are aggressively marketed to unsuspecting Canadians. The most important thing to remember when determining the cost/benefit of a tax shelter is the quality of the product and not the immediate tax savings that may be had. Therefore it is prudent that before you make a decision, no matter how simplistic the tax shelter seems and/or no matter how enticing they are, you should seek the appropriate professional advice and consult with your tax advisor before considering investing in them.



Corporate Planning Opportunities

If you are an owner/manager of a Canadian private corporation, there are some planning opportunities uniquely available to you.

Shareholder Loans

Shareholder loans not repaid before the year-end may result in the full amount of the loan being fully taxable on your 2008 tax return. If the loan was made to help with the purchase of a home, automobile for work, or corporate shares an exemption would apply.

\$ 750,000 Capital Gains Exemption (LCGE)

Shares of a qualified small business corporation fishing property and farm property (including shares of a corporation or partnership interest) still qualify for the lifetime capital gains exemption. This exemption has been increased from \$500,000 to \$750,000 for taxable capital gains after March 18, 2007. You should consult with your own tax advisor/professional since if you have any outstanding cumulative net investment loss (CNIL) or active business investment losses (ABIL) may affect the amount and use of the capital gains exemption.

Allowable Business Investment Loss (ABIL)

If you have an ABIL available to you to use, you will be able to reduce your overall taxable income. An ABIL is simply a loss on shares and/or debt you own of a small business corporation. The benefit of an ABIL versus a capital loss is that an ABIL can be used to reduce one's overall income as opposed to a capital loss that can only be used to reduce capital gains.

Be mindful that the administration, paperwork and requisite documentation including the overall financial details must be in place prior to claiming the ABIL on your tax return. As with most tax filings, prudent preparation and planning will go a long way to ensuring that the ABIL is claimed properly on your tax return and readily accepted by CRA.

The commentary and/or information provided herein should not be construed as legal or tax advice. Clients are strongly encouraged to seek the expertise of independent professionals, such as tax, legal and accounting experts prior to the final implementation of any strategy. Only after a diligent analysis of the client's needs, objectives and financial position and tolerance for risk can an appropriate recommendation be made.

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